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2 JULY 2004

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July 1, 2004

Via Hand Delivery

The Honorable Bruce F. Duke
Executive Director
The Public Service Commission
of South Carolina
P.O. Drawer 11649
Columbia, South Carolina 29211

04.169.E

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SC PUBLIC SERVICE COMMISSION

Re: **Additional comments of Duke Power, a division of Duke Energy Corporation's ("Duke Power") on its Request for Partial Waiver of Public Service Commission of South Carolina Rule R 103-331. (Docket No. 2004-169-E) and Motion to file exhibit "2" under seal.**

Dear Mr. Duke:

On June 11, 2004, Duke Power filed a request for partial waiver of Rule, R 103-331 as it relates to deposit requirements for nonresidential accounts pursuant to Rules, R103-301(3) and 103-800(B), South Carolina Code of Laws (1976, as Amended). Duke Power has received the Public Service Commission of South Carolina's (the "Commission") Directive requesting additional information in support of Duke Power's request, and respectfully responds to the stated areas of inquiry below.

Introduction

Duke Power is mindful of questions stated by Commissioners regarding Duke Power's request to approve the partial waiver, if the approval would harm South Carolina's economy by causing a possible loss of jobs in the future. Paramount in Duke Power's nonresidential customer relationship is a desire to retain the electrical service load provided to these customers. Duke Power's retention of its electrical load serving industrial customers is a daily concern. Therefore, Duke Power has no intention of exercising authority gained under a partial waiver, in such a manner as to cause a loss of jobs and/or loss of electric load.

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UTILITIES DEPARTMENT

Duke Power's Evaluation Criteria are Specific

Duke Power's proposed criteria for determining an existing nonresidential customer's creditworthiness is specific and allows for review of multiple sources of objective data that is not currently allowed by Rule, R 103-331. As noted in Duke Power's filing, the following specific information would be utilized in Duke Power's analysis of credit worthiness for nonresidential customers:

- Customer's utility payment record; and
- Key financial information and ratios that include but are not limited to the following:
 - Net Income
 - Gross Profit Margin
 - Cash Flow
 - Availability of Financing
 - EBIT/Interest Expense
 - Total Debt/Total Capital; and
- Public debt ratings and outlook forecasts from Standard & Poor's, Moody's, Fitch, or other available credit data providers; and
- Information from Dun & Bradstreet regarding payment trends with other creditors and suppliers; and
- Business profiles and industry analysis.

This internal and external data would be used to formulate an Internal Risk Rating as specified in the Duke Energy Corporate Credit Guidelines. Internal Risk Ratings are used throughout the Company and range from one to eight, with eight indicating the level of highest risk. The Internal Risk Ratings, filed under seal as Exhibit "1" to the June 11, 2004 filing, provide a comprehensive and objective measurement of a nonresidential customer's creditworthiness, and equate to public debt ratings issued by the industry norms such as Standard & Poor's.

In order to provide the Commission with a better understanding of how specific and comprehensive Duke Power's credit evaluation is, we enclose a recent example of a credit analysis and Internal Risk Rating performed for a North Carolina industrial customer as Exhibit "2". This Exhibit is provided to illustrate the thoroughness with

which Duke Power makes a credit evaluation. As indicated in this particular analysis, even though the customer scored six on the eight point scale, Duke Power's action was to initiate dialog with the customer, not make an immediate request to secure the account.

Furthermore, Duke Power does not propose to simply and arbitrarily impose a security requirement on an existing customer. Duke Power has an ongoing process to monitor internal and external customer data. When those financial indicators begin to look unfavorable, Duke Power initiates a dialog with the customers to better understand their financial position. In some cases, customers are able to provide satisfactory information to reduce or eliminate concerns about the risk of loss. In other cases, there can be a mutual agreement for more frequent payments.

Applicability to New/Existing Customers

And

"Grandfather" Provision

Duke Power's proposal would only apply to existing customers. Rule R 103-331 already allows Duke Power to request and maintain security on a "new" customer until they have established a good pay record for at least 24 months, although Duke Power does not normally maintain such security for more than 12 months if the customer has a good pay record and there are no external indicators of credit risk.

A "new" nonresidential customer is generally a new corporation, partnership, etc. that has no credit history (i.e., a startup company) which means Duke Power is requesting deposits or another form of security - such as a letter of credit or surety bond - - from them. Duke Power's proposal would apply to existing customers whose financial condition has significantly deteriorated since the time that they applied for service. As such, Duke Power's proposal seeks to treat existing and new nonresidential customers consistently by requiring appropriate security only when their financial condition so warrants.

Based on the explanation hereinabove, a "Grandfather" provision would not be necessary.

No Negative Impact to Economic Development and Distressed Industries

Duke Power is committed to promoting economic development in South Carolina and is undertaking initiatives to support the business climate such as Economic Development Rates and Economic Development forums with other stakeholders. Duke Power's request for a partial waiver of Rule R 103-331 is consistent with its economic development stewardship. As noted in Duke Power's original filing, the nonresidential customers that Duke Power is seeking the right to require security from have already become delinquent in their payments to other creditors and are often on the brink of filing for bankruptcy protection. Even though these customers are continuing to pay Duke Power on time, external financial data sources and information from the customers themselves reveals a dire financial condition. Despite the clear financial picture, Rule R 103-331 as currently written, prevents Duke Power from protecting it and its other customers from these imminent losses.

It is in Duke Power's interests to keep these customers in business without passing large losses on to other customers, and Duke Power's proposal meets these needs. It is important to emphasize that Duke Power's proposal does not limit the acceptable form of security to a cash deposit. Additional acceptable forms of security include a standby irrevocable letter of credit, guarantee from a creditworthy parent company, use of Duke Power's prepayment program -- which allows customers to *pay for electricity as it is used* on a weekly or bi-weekly basis, instead of the typical monthly billing cycle --, or a combination of a one-month deposit and prompt payment.

Duke Power's proposal gives the customer every opportunity to survive and strikes the appropriate balance between continuing to provide electric service to struggling businesses, while not adversely affecting other customers. Duke Power recognizes that some businesses having financial difficulty have been customers for a number of years, and hopes that their financial condition would improve. With that in mind, Duke Power's request for a waiver includes the commitment to release the security requested for such customers earlier than 12 months if their financial conditions improves satisfactorily over two consecutive quarters.

North Carolina's Successful Approach

As noted in Duke Power's original filing, North Carolina Utilities Commission Rule R 12-3 allows Duke Power to require that a customer reestablish credit when the basis on which the customer's credit was originally established has materially changed. This important protection in North Carolina has resulted in savings of almost \$3.5 million over the past few years that could have been lost if had Duke Power not been able change the customers' security requirements. Some of these North Carolina customers are still in business today. As such, Duke Power has had good experiences with the flexible and fair approach that North Carolina's rules allow. Further the partial waiver of Rule R 103-331 will allow consistent treatment among accounts for customers who operate in both jurisdictions.

Duke Power's ability to work with North Carolina business customers on frequency of payments and/or security has also meant that it has not had to exercise the rights afforded in North Carolina Utilities Commission Rule R12-9 (e) which allows the utility to accelerate the past due date and disconnect service with 5 days notice after billing in cases where "there are "factors which indicate the likelihood that the customer cannot pay his outstanding bill, and for which the customer's deposit, if there be one, does not furnish adequate security."

Appeals Process

Management review is a key component of Duke Power's risk assessment and customers are able to escalate any concerns internally with Duke Power management.

Furthermore, if for some reason a customer believed that Duke Power had arbitrarily imposed a security requirement on them, they have access to the complaint process of the Commission to seek appropriate relief.

Conclusion

Duke Power's proposal as originally filed on June 11, 2004, and as further explained above, would provide better protection to customers from having to absorb the costs resulting from unmitigated credit events. As stated, any customer's concerns can be addressed by Duke Power's internal management appeals process or by complaint to the Commission.

The Honorable Bruce F. Duke
Executive Director
The Public Service Commission
Of South Carolina
P.O. Drawer 11649
Columbia, South Carolina 29211

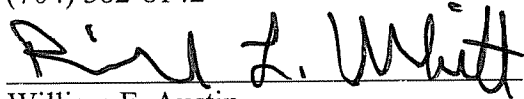
We hereby request that the Commission inquire into this matter and find that, (i) full compliance with the Rule introduces unusual difficulty to Duke Power; (ii) that the partial waiver request is in the public interest; (iii) that notice and a formal hearing are not required; and (iv) that the Commission approve this request in the next appropriate weekly agenda meeting. We welcome the opportunity to discuss this proposal further.

Confidentiality/Motion to File Under Seal

Exhibit "2" hereto, consisting of 6 pages, contains proprietary and commercially sensitive material which Duke Power hereby requests to file under seal. **Accordingly, please accept this letter as Duke Power's Motion to file Exhibit "2" hereto, under seal.**

Respectfully submitted,

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